

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 7 Case No.
:
Bienvenida Sosa, : 11-11408 (SHL)
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Debtor. :
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**ORDER TO SHOW CAUSE REGARDING MOTION TO REOPEN
CHAPTER 7 BANKRUPTCY CASE OF BIENVENIDA SOSA, AND
TEMPORARY RESTRAINING ORDER PENDING HEARING AND
DETERMINATION OF MOTION TO REOPEN**

Upon the declaration of Bienvenida Sosa, dated as of January 20, 2017 (the “Sosa Declaration”) an English translation of which is contained in the Certificate of Translation of Alan R. Gray, Esq., dated as of January 20, 2016, the declaration of her personal injury counsel, Elizabeth M. Pendzick, Esq. of Hausman & Pendzick, dated as of January 20, 2017 (the “Pendzick Declaration”), and the declaration of her current bankruptcy counsel, Stephen Z. Starr, Esq. of Starr & Starr, PLLC, dated as of January 25, 2017 (the “Starr Declaration” and with the Sosa Declaration and Pendzick Declaration, collectively, the “Declarations”), and upon the exhibits annexed thereto, and memorandum of law in support of the motion (the “Motion”) of Ms. Sosa seeking (a) to reopen her bankruptcy case, pursuant to 11 U.S.C. § 350(b), Rule 5010 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), and Local Bankruptcy Rule 5010-1, (b) issuance of a temporary restraining order, pursuant to 11 U.S.C. § 105(a), staying the Debtor’s personal injury action captioned as Bienvenida Sosa vs. Bedford Boulevard Food Corp and the New York Botanical Gardens (Index No. 21249/2011) pending in New York Supreme Court, Bronx County, consolidated with a second action captioned as Bienvenida Sosa vs. Automotive Realty Corp. and “John Doe Corporation” (Index No. 23146/2013) pending in New

York Supreme Court, Bronx County (such consolidated actions together, the “Personal Injury Action”) pending the Bankruptcy Court’s determination of the Motion, (c) directing the Office of the United States Trustee to appoint a chapter 7 trustee (“Trustee”) in the reopened bankruptcy case, (d) an order of abandonment of the Personal Injury Action, pursuant to 11 U.S.C. § 554 and Bankruptcy Rule 6007(b), by the Trustee to the Debtor *nunc pro tunc* to the date of the Debtor’s bankruptcy filing on March 30, 2011, (e) the granting of a nondischargeable lien against the Personal Injury Action and any recovery therein in favor of the Trustee and the Debtor’s bankruptcy estate sufficient to cover all creditors’ claims in the Bankruptcy Case, and costs of administration, (f) an order providing that the Debtor shall not settle the Personal Injury Action without the written consent of the Trustee, and (g) such other and further relief that the Court deems just and proper, it is hereby

ORDERED, that any party having an interest in the subject matter of the Motion show cause before the Honorable Sean H. Lane, United States Bankruptcy Judge, at 10:00 a.m. on February 8, 2017, or as soon thereafter as counsel may be heard, in Courtroom 701 of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004, why an order should not be entered granting the Motion and reopening the above-captioned bankruptcy case, and granting such other and further relief as the Court determines to be just and proper; and it is further

ORDERED, that sufficient case having been shown therefor, pending the hearing of the Motion and the Court’s determination thereof, pursuant to 11 U.S.C. § 105(a), the Personal Injury Action is stayed and defendants therein, The New York Botanical Garden, Bedford Boulevard Food Corp. and Automotive Realty Corp., are temporarily restrained and enjoined from litigating the Personal Injury Action, and seeking determination of any motions or

applications from the New York Supreme Court, Bronx County, in or regarding the Personal Injury Action *until such time as this Court decides whether or not to grant the motion to reopen*; and it is further

ORDERED, that Debtor's counsel shall serve of a copy of this Order, the Declarations and the Memorandum of Law by hand delivery, FedEx or similar overnight carrier so that actually received by each of the following parties or persons no later January 27, 2017 ~~than~~ _____, 2017: (a) Office of the U.S. Trustee, 201 Varick St., Rm. 1006, New York, NY 10014; (b) the former chapter 7 trustee in Ms. Sosa's bankruptcy case, Salvatore LaMonica, Esq., LaMonica Herbst & Maniscalco, LLP, 3305 Jerusalem Ave., #201, Wantagh, NY 11793; (c) attorneys for defendant The New York Botanical Garden in the Personal Injury Action, Michael P. McDermott, Esq., Downing & Peck, 17 Battery Place, Suite 709, New York, NY 10004; (d) attorneys for defendant Bedford Boulevard Food Corp. in the Personal Injury Action, Frenkel Lambert Weiss Weisman & Gordon, 53 Gibson Street, Bayshore, New York 11706, and (e) attorneys for defendant Automotive Realty Corp. in the Personal Injury Action, Jeffrey H. Roth, Esq. Law Offices Of Jeffrey H. Roth, 200 Park Ave., Suite 1700, New York, New York 10166, and (f) the Debtor's attorney in the Personal Injury Action, Elizabeth M. Pendzick, Esq., Hausman & Pendzick, 440 Mamaroneck Ave., Ste. 408, Harrison, NY 10528, and file a certificate of service reflecting such service on ECF in advance of the hearing; and it is further

ORDERED *that the Debtor's counsel shall serve as soon as possible a copy of this order by email or facsimile, if available, upon attorneys for both defendants and the plaintiff in the Personal Injury Action; and it is further*

ORDERED, that Debtor's counsel shall promptly serve a certified copy of this Order upon the Bronx County Clerk, 851 Grand Concourse, Room 118, Bronx, NY 10451 and upon the

Trial Support Office, Room 217, Civil Term, Bronx Supreme Court, 851 Grand Concourse, Bronx, NY 10451, and file a certificate of service on ECF reflecting such service ; and it is further

ORDERED, that any objections to the Motion (i) shall be made in writing; (ii) shall state with particularity the grounds therefor; (iii) shall comply with the Bankruptcy Rules and the Local Bankruptcy Rules; and (iv) shall be electronically filed on the ECF System in this action with a courtesy copy delivered to the Chambers of the Honorable Sean H. Lane, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, 1 Bowling Green, New York, NY 10004 and served upon Starr & Starr, PLLC, 260 Madison Ave., 17th Floor, New York, NY 10016 (Attention: Stephen Z. Starr, Esq.), such that the response is actually filed and received in hand no later than 5:00 p.m. on **February 6, 2017**.

Dated: New York, New York
January 26, 2017

/s/ Sean H. Lane
Honorable Sean H. Lane
United States Bankruptcy Judge